

SHOREVIEW PLANNING COMMISSION MEETING MINUTES

May 26, 2009

CALL TO ORDER

Chair Proud called the meeting of the May 26, 2009 Shoreview Planning Commission meeting to order at 7:00 p.m.

ROLL CALL

The following members were present: Chair Proud, Commissioners Feldsien, Ferrington, Schumer, Solomonson, Wenner.

Commissioner Mons was absent.

APPROVAL OF AGENDA

Chair Proud noted that the variance portion of item No. C has been dropped and action is only on the Residential Design Review.

MOTION: by Commissioner Schumer seconded by Commissioner Solomonson to approve the May 26, 2009 agenda as amended.

ROLL CALL: Ayes - 6 Nays - 0

APPROVAL OF MINUTES

MOTION: by Commissioner Schumer seconded by Commissioner Feldsien to approve the April 28, 2009 Planning Commission minutes as submitted.

ROLL CALL: Ayes - 6 Nays - 0

REPORT ON CITY COUNCIL ACTIONS

City Planner Kathleen Nordine reported that the City Council took action on the following:

- May 4, 2009, tabled the Text Amendment for Architectural Design Standards to await review by the Economic Development Commission. Action is expected at the June 1, 2009 City Council meeting.
- Approved Text Amendment on Nuisance Abatement.
- May 18, 2009, approved a contract with the Ramsey County Conservation District for inspections on erosion control and sediment.

VARIANCE

**FILE NO.: 2352-09-10
APPLICANT: LINDA M. LARSON
LOCATION: 3926 AND 3930 DALE STREET NORTH**

Presentation by Senior Planner Rob Warwick

This application is for the construction of a three-season porch at the rear of an existing duplex. A variance is requested to reduce the required rear setback from 30 feet to 27 feet at the northeast corner of the proposed porch. This property is in an R2, Attached Residential District. The duplex sits on a through lot with the front abutting Dale Street and the rear abutting Ramby Avenue—an unimproved roadway. The access driveway for the KMSP broadcasting tower is located within the unimproved roadway. Each unit of the duplex has a split entry, lower level and attached single-car garage. A main level deck runs along the rear. There is a multi-level deck at the rear of the northern unit. A porch of 10' by 11.6' is proposed for each unit to be constructed with post and beam framing. The roof will match the existing roof.

The applicant states that the porch expansion is a reasonable use of the property. Hardship exists with the pie shape of the lot. The large front setback reduces the rear yard depth. Staff's review found that the majority of the porch complies with the 30-foot setback. Only the extreme northeast corner encroaches into the setback. The encroachment is estimated at less than 10 square feet. The circumstances of the lot shape and location of the duplex create hardship, and staff supports the application with the conditions listed in the staff report.

Property owners within 150 feet were notified of the request. One comment from KMSP Fox 9 was received stating no objection.

Commissioner Wenner asked if the City has any plans to develop Ramby Avenue. Mr. Warwick answered that the south portion of the roadway was vacated and the east and west portions remain. The City has no plans to develop it.

Chair Proud opened the discussion to public comment. There was none.

Commissioner Schumer asked if the northeast corner of the deck complies with the 10-foot side setback. Mr. Warwick answered that it does.

MOTION: by Commissioner Solomonson, seconded by Commissioner Ferrington to adopt Resolution 09-32 approving the variance request to reduce the 30-foot minimum rear setback for to 27 feet for an addition at 3926 and 3030 Dale Street, subject to the following conditions:

1. The project must be completed in accordance with the plans submitted as part of the Variance application. Any significant changes to these plans, as determined by the City Planner, will require review and approval by the Planning Commission.
2. This approval will expire after one year if a building permit has not been issued and work has not begun on the project.
3. This approval is subject to a 5-day appeal period. Once the appeal period expires, the required building permit may be issued for the proposed project.

The approval is based on the following findings:

1. An enclosed porch represents a reasonable use of the property.
2. The configuration of the existing lot and location of the house on the lot are unique and were not created by the homeowner.
3. The proposal will not alter the character of the neighborhood due to the minor nature of the encroachment.

ROLL CALL: Ayes - 6

Nays – 0

VARIANCE**FILE NO.: 2351-09-09****APPLICANT: DANIEL & JEAN STOCKER****LOCATION: 199 NORTH OWASSO BOULEVARD****Presentation by City Planner Kathleen Nordine**

The applicants are seeking a variance from the required 10-foot setback from the Soo Street right-of-way to install a 6-foot dog-eared style privacy fence. The City's ordinance allows for this type of fence when landscaping is planted between the fence and property line. The new fence would replace a fence that was damaged in a storm a few years ago. It would be located at the same place as the old fence adjacent to the property line. The property is a substandard lot in the R1 District with 8,832 square feet.

The applicants state that hardship is based on the lot characteristics. As a substandard lot, it narrows to a 39-foot width at the rear lot line. Since the fence is replacing one that was damaged, it will not alter the character of the neighborhood.

Staff believes there is hardship and that the fence is reasonable. Privacy will be created from the heavy traffic on Soo Street and North Owasso. Staff recommends approval with the conditions listed in the staff report.

Property owners within 150 feet were notified of the proposal. Ramsey County Public works expressed concern about snow storage and has requested the fence be placed 2 feet inside the property line. The County Management Department has no objections to the fence, only that it be aesthetically pleasing.

Commissioner Ferrington asked if future improvements are planned for Soo Street, specifically with sidewalks. Ms. Nordine stated that at this time there are no plans for this section, although it is a rural street.

Commissioner Schumer verified with Ms. Nordine that the applicant agrees to the 2-foot setback from the property line.

Commissioner Solomonson noted that the distance of the fence from the pavement will be greater than 2 feet. Ms. Nordine stated that the fence will be approximately 6 feet from the edge of the road surface.

Commissioner Feldsien asked if the fence on the west side is a replacement or is for privacy. Ms. Nordine explained that the applicant's fence on the west will tie into a fence of the neighbor. **Mr. Stocker**, Applicant, added that it is for privacy and not a replacement.

Chair Proud opened the discussion to public comment. There was none.

MOTION: by Commissioner Feldsien, seconded by Commissioner Wenner to adopt Resolution 09-34 approving the variance permitting a 6-foot tall fence within the required fence setback from Soo Street and allowing the placement of the fence along the right-of-way line subject to the following conditions:

1. The project must be completed in accordance with the plans submitted as part of the Variance application. Any significant changes to these plans, as determined by the City Planner, will require review and approval by the Planning Commission.
2. The fence shall be set back a minimum of 2 feet from the property line adjacent to Soo Street.
3. This approval will expire after one year if a building permit has not been issued and work has not begun on the project.
4. The approval is subject to a 5-day appeal period. Once the appeal period expires, a building permit may be issued for the proposed project.

The approval is based on the following findings:

1. A 6-foot tall fence located along Soo Street is reasonable due to the property's proximity to an arterial and collector roadway, and substandard size and width of the property. The proposed fence will enhance the property providing needed privacy and mitigating noise.
2. The property is unique because it is situated on three rights-of-ways (alleyway, arterial and collector) and is substandard in size and width.
3. The proposal will not alter the character of the neighborhood, since other houses in the area have fences in the same proximity to Soo Street. It is

also replacing a 6-foot tall fence that was removed a few years ago due to storm damage.

ROLL CALL:

Ayes - 6

Nays – 0

RESIDENTIAL DESIGN REVIEW

FILE NO.: 2353-09-11

APPLICANT: MCDONALD CONSTRUCTION

LOCATION: 442 HORSESHOE DRIVE

Presentation by Senior Planner Rob Warwick

This proposal is to remove an existing home and attached garage and construct a new home with attached garage. The property is a substandard riparian lot on Lake Owasso with a lot width of 55 feet at the street and 75 feet at the OHW.

The proposal includes an attached two-level garage with two separate driveways. The lower level tuck-under garage faces the street. The upper level garage is the same level as the main floor of the house and faces north. The width of each of the two driveways is 10 feet and 11 feet. Combined, this is less width than one standard size driveway, which is 24 feet. The City Council has the authority to allow deviations from a standard driveway and permission for the two driveways will be submitted to the City Council. The lower level drive will use pervious material. The original plan showed impervious surface in the front yard at 51%. City Code requires 40%. The plan has been changed to comply with the 40%.

The location of the existing house is located less than 1 foot from the south side lot line. The proposed new home will comply with City Code with a 5-foot south side setback, which is permitted when the existing setback is less than the 10-foot minimum. The second story will comply with the 10-foot setback.

Three landmark trees will be removed, which will require three replacement trees. A tree protection and replacement plan will be required prior to a demolition permit.

Design standards are met with this proposal. Staff believes the proposed design is reasonable for the site conditions. Landscaping will be planted in the open front yard area. The shoreland mitigation practices to be used are Architectural Mass and Reduction in Impervious Surface.

Property owners within 150 feet were notified of the project. The main concern is allowing so much impervious surface in the front yard with two driveways. There are also concerns about storm water runoff and headlights shining into adjacent neighbors' homes. The Public Works director has addressed drainage and runoff.

Staff is recommending the Planning Commission forward the application to the City Council with a recommendation for approval subject to the conditions listed in the staff report. Condition No. 1 on revised motion should have a period after “application” and the remaining language between No. 1 and No. 2 stricken.

Commissioner Schumer referred to No. 2 of the conditions and suggested placing a period after the word “property” and removing the remainder of that sentence because the applicants have met the 40% maximum impervious surface.

Chair Proud suggested infiltration basins or drywells for downspouts on gutters.

Commissioner Solomonson asked how the front setback is determined for the house. Mr. Warwick explained that the front setback is the average plus or minus 10 feet of the setbacks of the two adjacent homes. The house to the south is set at less than the minimum setback of 30 feet, so the minimum 30 feet is used in the calculation for the applicants’ setback.

Chair Proud opened the discussion to public comment.

Theresa St. Amant, St. Amant Design, 11325 Harrison Road, Bloomington; **Denise Boyles**, St. Amant Design, **Tim Klegin**, Applicant introduced themselves. **Mr. Klegin** stated that there are minimal options on this lot. To make a house and garage on one level would require a lot of fill. The lower driveway area would work well for living space for older parents.

Commissioner Feldsien asked the number of vehicles the design allows. Mr. Klegin stated that the design is for four. The intent is to use the lower level for one vehicle, but there is space for a boat. Ms. St. Amant added that the garages will reduce the need for outside storage or additional storage sheds in the yard.

Mr. Nito Quitevis, expressed his objection to a house with a detached garage on this small lot. He cannot envision two driveways on a lot that is 55 feet wide at the street. Pervious cement does not work in this climate because of freeze and thaw temperatures. The upkeep requires vacuuming. Expensive equipment will be needed for maintenance. If pavers are used, there is erosion into the street. Further, the headlights will shine into the neighbor’s house.

Ms. St. Amant stated that the roof line is to break up the mass of wall, but the garage is attached. The amount of driveway at the street will be reduced with this design rather than just one driveway. **Mr. Klegin** stated that pavers will be used. Ms. Boyles added that the shape of the driveways has not changed, but they are narrower. **Mr. Klegin** stated that trees and landscaping will be planted. His neighbor to the north is not present and it is his understanding that neighbor is not opposed to the proposal.

Commissioner Feldsien asked if there has been discussion to try to have only one driveway. Mr. Warwick explained that the grade of the property is problematic.

Commissioner Ferrington stated that her main problem with the design is the two curb cuts. However, as that part of the application is not under consideration by the Planning Commission, she favors the proposal. She suggested looking at how the pavers are placed to reduce runoff into the street.

Commissioner Solomonson asked what would happen if the Council did not approve the curb cuts. Ms. Nordine stated that one condition of approval is that if there are any significant changes, the application would need further review by the Planning Commission.

It was the consensus of the Commission that if the Council approves the curb cuts, the applicant has presented a very creative design that will work on a very challenging piece of property.

MOTION: by Commissioner Schumer, seconded by Commissioner Wenner to recommend approval of the Residential Design Review application submitted by McDonald Construction on behalf of Tim and Michele Klegin, for property located at 442 Horseshoe Drive, complies with the adopted standards for construction of a new home on a substandard riparian lot and so is approved, subject to the following conditions:

1. The project must be completed in accordance with the plans submitted as part of the Residential Design Review application.
2. Any significant changes to these plans, as determined by the City Planner, will require review and approval by the Planning Commission.
3. Approval of the Residential Design Review application is contingent upon the City Council's approval of a second curb cut on the property.
4. This approval will expire after one year if a building permit has not been issued and work has not begun on the project.
5. Impervious surface coverage shall not exceed 25.5% of the total lot area as a result of this project. Foundation area shall not exceed 18%.
6. A minimum of 434 square feet of pervious pavement shall be used for the driveway, and shall be installed per plans and specifications approved by the Director of Public Works. The property owner shall enter into a maintenance agreement that specifies required maintenance for the drive and annual reporting requirements.
7. The driveway to the upper garage shall be constructed with a curb along the south edge, and tipped to collect runoff away from the north side of the lot.
8. Gutters shall be installed to collect storm water from the roof. The downspouts shall discharge the water away from adjoining properties.
9. Three landmark trees will be removed as a result of the development, and three replacement trees are required. A cash surety to guarantee these replacement trees shall be submitted prior to issuance of a building permit.
10. Screening shall be installed north of the upper drive to reduce glare onto the adjacent property. Screening shall consist of a privacy fence or a conifer screen.
11. An erosion control plan shall be submitted with the demolition permit application and implemented during demolition and construction of the new residence.

12. A landscape plan shall be submitted prior to issuance of a building permit for approval by the City Planner, landscaping shall be installed per the approved plan.
13. A Mitigation Affidavit shall be executed prior to the issuance of a building permit for the new residence.
14. The Grading Certificate shall verify that impervious surface coverage does not exceed 3,573 square feet (25.5% of lot area), thereby complying with the mitigation practice of reducing impervious surface coverage.
15. A building permit must be obtained before any construction activity begins.

ROLL CALL: Ayes – 6 Nays – 0

Chair Proud called a recess and reconvened the meeting at 8:21 p.m.

OLD BUSINESS

VARIANCE – EXTENSION OF CONDITION OF APPROVAL

FILE NO.: 2315-08-12
APPLICANT: ARIC & HEIDI WISTE
LOCATION: 4943 HANSON

Presentation by Senior Planner Rob Warwick

At its May 27, 2008 meeting, the Planning Commission approved the reduction of a side yard setback variance from 10 feet to 6 feet in order for the applicant to be able to convert their attached garage into living area. One condition of approval is removal of the driveway for the attached garage. A building permit was issued on June 13, 2008, with work to be completed in one year. At this time the applicants are requesting an extension to complete the exterior work by fall of 2009. The interior work is almost done.

When the application was submitted, staff recommended a two-year time frame for removal of the driveway. The request for an extension shows the applicants are committed to complying with this condition. Staff is recommending approval of the extension until May 2010.

Chair Proud asked if there are any surface water or erosion issues with the lack of landscaping on the driveway area. Mr. Warwick answered, no.

Commissioner Feldsien questioned an extension as long as a year. His concern is that the project is taking a long time and should be completed.

Mr. Aric Wiste, 4943 Hanson Road, stated that he has requested a year but plans not to take a whole year. He will comply with the amount of time the Planning Commission is willing to extend. He hopes to have the driveway removed by fall to be able to put in sod.

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Commissioner Feldsien suggested the time be extended to November 1, 2009, a period of six months.

Commissioner Solomonson stated that he does not believe another year is unreasonable, which was staff's original recommendation.

Commissioners Wenner and Ferrington agreed with Commissioner Solomonson.

Commissioner Feldsien stated that he would change his position.

MOTION: by Commissioner Feldsien, seconded by Commissioner Ferrington to amend Condition No. 2 of Resolution 08-27, allowing Aric and Heidi Wiste, 4943 Hanson Road, until May 2010 to remove the south driveway and install new landscaping, thereby bringing the property into compliance with the variance approval and with existing City regulations for driveways.

ROLL CALL: Ayes – 6 Nays – 0

TEXT AMENDMENT – REGISTRATION/RECERTIFICATION OF VACANT AND/OR FORECLOSED DWELLING UNITS

FILE NO.: 2348-09-06
APPLICANT: CITY OF SHOREVIEW
LOCATION: CITY WIDE

Presentation by City Planner Kathleen Nordine

The Planning Commission reviewed this proposed ordinance at the March and April meetings. The ordinance would establish a registration and re-certification program for vacant and foreclosed residential properties. At both meetings action was tabled with direction to staff to provide more information on the applicability of the ordinance to vacant residential dwellings, registration fees and the re-certification process in regard to compliance with the Building Code and Housing Code.

Staff has prepared two ordinances. One ordinance would apply only to foreclosed residential properties and the other would apply only to vacant residential properties. Vacant properties present the same challenges as foreclosed properties with lack of maintenance, difficulty in tracking the responsible party and achieving compliance. Therefore, vacant properties would be required to register with the City. The ordinance regarding vacant residences defines vacant as: 1) no one living in the unit on a permanent basis; (excluding temporary seasonal vacancies); 2) a residence is vacant 30 or more consecutive days; or 3) water service has been shut off to the property. All vacant properties would be required to be registered whether or not there are code violations. This is to provide staff with a point of contact for any property issues that may arise. Upon registration, water service can be restored as long as all fees and penalties are paid. While vacant properties must be registered, re-certification for occupancy is not necessary.

The ordinance for foreclosed properties requires re-certification of occupancy. This requires an inspection of the property by a City Inspector to assure compliance with City ordinances. Compliance orders will be issued if any violations are found. A Temporary Certificate may be issued if the owner has executed an agreement with the City to resolve any cited violations, or if a building permit has been issued to complete required improvements.

The inspections will review the property for compliance with the housing standards in Section 211 of the Development Code. The inspection is similar to the one for rental units and differs from the Building Code, which establishes construction standards. State statute prohibits the City from requiring older homes to comply with current building codes. However, smoke and carbon monoxide detectors will be required.

Fees will be adopted by the City Council to cover administrative and enforcement costs. There is no fee to register a vacant property, and a financial guarantee would not be required for the Temporary Certificate of Compliance for occupancy.

These ordinances provide a mechanism by which the City can be sure vacant and foreclosed properties are properly maintained and re-occupied in accordance with City standards. Staff recommends both ordinances, as they will allow a more efficient process to address maintenance issues.

Commissioner Ferrington stated that she is pleased with how the ordinance has been reworked into two ordinances. She thanked staff for listening to the concerns of the Planning Commission, especially removal of the surety requirement.

Commissioner Solomonson agreed and stated that he is pleased to see that re-certification only applies to foreclosed properties.

City Attorney Filla noted on page 2 at the top the reference to Section 210.040 5(a) under item (b), the reference should be Section 210.040 (C)5(a). On the page 3, Compliance Order, the words “Vacant Residential Property and/or” should be removed. Reference should only be to a foreclosed residential property in this section.

Chair Proud questioned the definition of Foreclosed Residential Dwelling in 210 Nuisance, Section 210.030 (C) (3). City Attorney Filla stated that it should read, residential property which has been sold at a Sheriff’s sale.

Commissioner Feldsien asked if redemption means the property is vacant for six months. City Attorney Filla explained that the redemption period after a Sheriff’s sale is six months. The mortgage has to be paid in order to redeem it. The foreclosed owner can continue to occupy the home during that time, or a lender could rent the property to another party. However, the vacant property ordinance defines a property as vacant after 30 days, and if vacant for 30 days, those regulations would go into effect. He sees the two ordinances working in tandem together. Ms.

Nordine further explained that because of the difficulty of knowing when a property is in foreclosure, staff tied the definition to the Sheriff's sale, which is date specific.

Commissioner Solomonson asked when re-certification takes place. Ms. Nordine responded that when a new occupant moves into the property, after the six-month redemption period, re-certification is required.

Chair Proud referred to page 4, item iii, under Compliance Order, and suggested filing a notice of record would be the surest way to serve notice on the owner for a compliance issue. Also, on page 5, (K) Liability he suggested that cost losses and attorney fees be included. City Attorney Filla stated that the Liability provision relates to safety and code compliance.

Chair Proud opened the discussion to public comment.

Mr. Patrick Ruble, St. Paul Area Association of Realtors, stated that two standards are being established for vacant property. The foreclosed ordinance will establish a point of sale time for Shoreview with the re-certification process. He is aware of 14 properties foreclosed in Shoreview. There is a time period when the City cannot identify whether a property is vacant or not. This type of ordinance does not work the way it is intended. Burnsville has such an ordinance and is considering modifying it. If possible, he would like the opportunity to work with staff on the ordinance language.

Chair Proud asked for further clarification on the undesirable aspect of the point of sale. **Mr. Ruble** explained that there is a double standard. Vacant properties do not need re-certification. Foreclosed properties cannot be sold until they are re-certified. They are all vacant properties.

Chair Proud invited Mr. Ruble to work with staff to fine tune the ordinance.

MOTION: by Commissioner Solomonson, seconded by Commissioner Feldsien to recommend the City Council adopt the text amendment to Section 210, Nuisance, establishing pertaining to the registration foreclosed and/or vacant residential dwelling units with the edits recommended by the City Attorney. The proposed section 210.030 establishes an ordinance requiring the registration and re-certification of foreclosed residential dwelling units and proposed section 210.040 establishes an ordinance requiring the registration of vacant residential dwelling units.

The recommendation is based on the following findings:

1. The City's 2008 Comprehensive Plan includes policies and recommended actions regarding neighborhood preservation.
2. The Development Code is the appropriate tool for implementing the policies of the Comprehensive Plan.

ROLL CALL: Ayes – 6 Nays - 0

MISCELLANEOUS

Commissioners Schumer and Feldsien will respectively attend the June 1, 2009 and June 15, 2009 City Council meetings.

ADJOURNMENT

MOTION: by Commissioner Schumer, seconded by Commissioner Feldsien to adjourn the May 26, 2009 Planning Commission meeting at 9:05 p.m.

ROLL CALL: Ayes - 6 Nays - 0

ATTEST:

Kathleen Nordine
City Planner